59.

SUPREME COURT OF THE UNITED STATES.

No. 47.

THE UNITED STATES, APPELLANTS,

vs.

DOMINGO ACOSTA.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA

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S. D. Langtree, Print.

37.

Before the Honorable Isaac H. Bronson, Judge of the Superior Court for the District of East Florida, and specially authorized by law to receive and adjudicate claims to lands within the said District.

Be it remembered, that on the fourth day of April, in the year of our Lord one thousand eight hundred and twenty-nine, Domingo Acosta, by Joseph B. Lancaster, his attorney, brought and filed in the clerk's office of the superior court for the district of East Florida, his petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

Petition to the Court.

TERRITORY OF FLORIDA,
Eastern District, Superior Court, sct.

To the Honorable the Judge of said Court in Chancery sitting, the petition of Domingo Acosta, an inhabitant of the aforesaid Territory, respectfully sheweth:

That upon the second day of May, A. D. 1816, for and in consideration of the services performed for and to the use of the Spanish Government by your petitioner previous to that date, and which had not been recompensed by said government, your petitioner filed before the then acting Spanish governor of the province of East Florida, his petition setting forth said uncompensated services, and praying a grant of land for eight thousand acres; your petitioner further represents that upon the twentieth day of May, in the year 1816 aforesaid, the said Governor Coppinger, acting at that time by lawful authority from the Government of Spain, did actually, as of right he might do, grant to your petitioner the amount of acres in his aforesaid petition asked for, all of which will more fully and at large appear by reference to the said petition and grant, bearing date upon the days and in the year aforesaid, certified translations whereof are herewith filed, the originals being in the Spanish language, marked Exhibit No. 1, and prayed to be made a part thereof. Your petitioner further states that the said grant authorized the surveyor general to survey the lands so granted upon any unappropriated lands of the royal domain; in virtue whereof, and in pursuance of said grant, and as your petitioner might rightfully do, he caused the surveyor general, George I. F. Clarke, to have surveyed for him, four several tracts of land, to wit, one of four thousand acres, two of fifteen hundred acres each, and one of one thousand acres, in the aggregate making eight thousand acres, and lying and

bounded as follows, to wit: the four thousand acre tract, on the west of Indian river, at Flounder creek, beginning at a palm tree, and running thence S. 69° W. 222 1–2 chains to a pine; thence, S. 21° E. 180 chains to a pine; thence, N. 69° E. 222 1–2 chains to a palm tree; thence, N. 21° W. 180 chains to the beginning; one thousand five hundred acres thereof in Ibbin's hammock, on the southwest of Ray's trail, the beginning whereof is at a stake, and runs thence N. 50° E. 173 chains, 20 links to a hickory; thence, N. 40° W. 86 chains, 60 links to a red oak; thence, south 50° W. 173 chains, 20 links to a lightwood; thence, S. 40° E. 86 chains, 60 links to the beginning: one thousand five hundred acres more on the north side of Dunn's creek, that communicates between Dunn's lake and St. John's river, beginning on the creek at a live oak; running thence north 75 chains, to a pine; thence, east 200 chains to a pine; thence south 75 chains to a cypress; thence, with the meanders of the creek to the beginning; and the one thousand acre survey is at Bowleg's old field, to the west of Paynestown, beginning at a stake and running thence north, 85° E. 60 chains to another stake; thence, S. 55° E. 70 chains, 71 links to a stake; thence, N. 35° E. 70 chains 71 links to an ironwood; thence, north 55° W. 70 chains, 71 links to a pine; thence, north 76° W. 80 chains to a hickory; thence, S. 14° W. 85 chains to the beginning; copies of which surveys marked Exhibits No. 2, 3, 4 and 5, and herewith filed and prayed to be made a part hereof, all within the jurisdiction of this court.

Your petitioner further states that his aforesaid claim as above set forth, has been filed before the board of commissioners appointed to ascertain claims and titles to lands in East Florida, who, as he is informed, have refused to recommend the same to the favorable notice of the United States Government, and have rejected it, but have not reported it antedated or forged, nor is the same annulled by the treaty with Spain nor by the decree ratifying the same. A copy of all which proceedings will be herewith filed, as Exhibit No. 6, and prayed to be made a part hereof. But your petitioner is advised and believes, and alleges and avers that his grant aforesaid is good and valid, and invests him with a fee simple estate in the aforementioned eight thousand acres of land to him as aforesaid granted, by the usages, customs, laws, and ordinances of the King of Spain; and by the treaty between Spain and the United States, of the 22d February, 1819, the United States are bound to recognize and confirm to him his aforesaid title, in as full and ample a manner, as he had and held the same under the Spanish Government. Without this, the United States are, as far as he knows, the rightful claimants to said lands.

Your petitioner, in consideration of the premises, prays that this honorable court will take jurisdiction of this his petition, and that a copy hereof, and a citation, to shew cause, &c., may be served on Thomas Douglas, Esq., United States district attorney for this district, pursuant to the provisions of the statute in such cases made and provided. And, finally, that your honor may decree to your

petitioner, a confirmation of his title to the lands in this his petition claimed, and such other and further relief as in equity he is entitled to. And your petitioner, as in duty bound, will, &c.

JOS. B. LANCASTER,
Attorney for Domingo Acosta.

A copy of the foregoing petition, with a citation thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for the same district, and the return of the said marshal thereon, is in the words and figures following, to wit:

"Executed by serving copy on Thomas Douglas, Esq., United States attorney, the 23d April, 1839.

"WATERS SMITH, *Marshal.*"

Answer of United States Attorney.

And afterwards, to wit, on the first day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglas, Esquire, United States attorney for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said petition; which said answer is in the words and figures following, to wit:

SUPERIOR COURT, *May Term, in the year* 1829.

THE UNITED STATES OF AMERICA
ats.
DOMINGO ACOSTA.

The answer of Thomas Douglas, United States attorney for the district of East Florida, to the petition or bill of complaint of Domingo Acosta. The said attorney, in the name, and for and on behalf of the same United States, saving and reserving to them now, and at all times hereafter, all, and all manner of benefit of exception to the manifold errors, defects, and irregularities, in the said petition or bill of complaint contained for answer thereunto, or to so much thereof as it is material and necessary for them to answer unto, answereth and saith:

That, whether any such grant was ever made or not by the said Governor Coppinger to the said Domingo Acosta, on the twentieth day of May, in the year 1816, or at any other time, or whether the said Governor Coppinger was then acting by lawful authority of the Government of Spain, or whether the said Domingo Acosta had performed any such services for and to the use of the said Spanish Government, or whether the said Domingo Acosta caused the said land to be surveyed or not, this respondent has no knowledge, except what he has derived from report and from the perusal of the said petition or bill of complaint, and cannot, therefore, either admit or deny the same; but respectfully prays this

honorable court to require of the said Domingo Acosta due proof thereof, and of all the matters and things in the said petition or bill of complaint thereof alleged and set forth, as they are therein stated, according to law and the usages of courts of equity.

And this respondent admits that the aforesaid claim, as above set forth, has been filed before the board of commissioners appointed to ascertain claims and titles to land in East Florida, and that said board of commissioners rejected said claim; but this respondent denies that the grant aforesaid, if made as aforesaid, (which is not admitted,) was good and valid, or that it invests the said Domingo Acosta with a fee simple estate (or any other estate) in said eight thousand acres of land, or any part thereof, or that the said United States are bound to recognize the aforesaid claim of title of the said Domingo Acosta in any manner whatever.

And this respondent avers that if any such grant of lands was ever made by the said Governor Coppinger to the said Domingo Acosta, as is alleged, stated, set forth, and described in the said petition or bill of complaint, it was made contrary to and in violation of the laws, ordinances, and royal regulations of the Spanish Government aforesaid, which were then in force in East Florida, (in which province of East Florida the said lands were situated,) providing for the granting of lands in said province, and without any authority on the part of the said Governor Coppinger to make it; all of which will more fully appear by reference to the said laws, ordinances, and royal regulations, which this respondent prays leave to introduce and read on the hearing of this cause; and farther, that said grant, if made as aforesaid, was never approved by the Spanish Government, and was and is wholly null and void.

And this respondent farther says, that at the time when it is alleged that said grant was made, it was, and for a long space of time had been, the fixed and settled policy of the Spanish Government to parcel out its colonial domain with reference to the sole objects of increasing the population of its provinces, and of benefiting its indigent subjects, and, that according to said policy, grants for the purpose of speculation were never tolerated, and that the grant above specified (if it was obtained at all) was obtained for the purpose of speculation only.

And now, having fully answered all and singular the matters and things in the said petition or bill of complaint alleged, the said attorney prays that the said United States may be hereof discharged, and that their reasonable costs and charges by them in and about the defence of this suit, paid, laid out, and expended, may be adjudged and decreed to them, &c.

THOS. DOUGLAS,
U. S. Attorney.

Replication.

And afterwards, to wit, on the eighth day of August, in the year our Lord one thousand eight hundred and thirty-four, the said

claimant, by his said attorney, brought, and filed in the clerk's office aforesaid, his replication; which is in the words and figures following, to wit:

SUPERIOR COURT, *East Florida.*

DOMINGO ACOSTA
vs.
THE UNITED STATES. } Land Claim, 8,000 Acres.

The Replication of Domingo Acosta to the Answer of Thomas Douglas, Esquire, attorney for the United States, defendant.

And this replicant, saving and reserving to himself all, and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties and insufficiencies in the answer of the said defendant for replication thereunto, says, that he does and will aver, maintain, and prove his said bill to be true, certain, and sufficient in the law to be answered unto by the said defendant, and that the answer thereto is very uncertain, evasive, and insufficient in the law to be replied unto by this replicant, without that, that any other matter or thing in the said answer contained material or effectual in the law to be replied unto, confessed, or avoided, traversed or denied is true; all which matters and things this replicant is ready to aver, maintain, and prove, as this honorable court shall order and direct; and humbly pray as in and by their said bill he has already prayed.

JOS. B. LANCASTER,
Atty. for Claimant.

Cause Heard and Submitted.

And afterwards, before the superior court for the district of East Florida, holden at the court-house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-four, to which term this cause had come by regular continuance, to wit, on Friday the twelfth day of said term, and the eighth day of the month of August, the following entry of record was made in this cause, to wit:

DOMINGO ACOSTA
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 8,000 Acres.

This day came as well the counsel for the said claimant as the counsel for the United States; and the counsel for the United States moved the court for a continuance of this cause; which motion was overruled by the court; whereupon, this cause came on to be heard this day, and the petition of the said claimant, and the answer of the attorney of the United States were read to the court; and on motion of the claimant's counsel, and with the assent of the counsel for the United States, leave is given the said claimant to file

his replication *nunc pro tunc.* The counsel for the claimant offered in evidence a certified copy, by the keeper of the public archives for East Florida, of the original certified copy by Tomas de Aguilar, of the memorial and grant in this case, together with the certified translation thereof by the translator and interpreter of this court; to the receiving of which in evidence, the counsel for the United States objected, and filed the following reasons therefor, to wit: 1st. Because the complainant has not, in his petition or bill of complaint, alleged or shown the loss of the said original, or in any way accounted for its absence or non-production. 2d. Because it is only the copy of a copy. 3d. Because the document from which it is taken has also been given in evidence in this case by the complainant. 4th. Because the document from which it is certified to be taken could not be received in evidence without support from collateral proof. 5th. Because the claimant has not proven the execution of the original from which the first copy was taken. 6th. Because the archives have been examined, and they furnish no proof that such an original ever existed. 7th. Because if such an original ever did exist, it should now be found in the office of the public archives. 8th. Because the absence of the original from the office where the laws and usages of Spain require it to be deposited, and where the laws of the United States now require all such documents to be kept, creates a strong presumption that no such original ever existed. 9th. Because the original from which the first copy was taken could not be received in evidence without support from collateral proof; which objections were overruled by the court, and the said document admitted in evidence, but subject to the opinion of the court as to its admissibility, after hearing the argument in this cause. The said claimant by his counsel then offered in evidence two surveys to the claimant in this case, one for 4,000 acres, dated 20th January, 1820, and the other for 1,500 acres, dated 14th February, 1818; to the receiving of which in evidence the counsel for the United States objected, and the objection was overruled by the court, and the said surveys admitted in evidence, but subject to the opinion of the court as to their admissibility, on hearing the argument in this case. The counsel for the said claimant also offered in evidence two other surveys to the claimant in this case, one for 1,500 acres, dated 15th January, 1818, and the other for 1,000 acres, dated 12th January, 1818, which were received in evidence without objection from the counsel for the United States. The counsel for the said claimant then offered in evidence a document purporting to be an original certified copy of a concession to Domingo Acosta for the land claimed in this case, brought into court by the keeper of the public archives for East Florida, in obedience to a subpœna *duces tecum* issued from this court, and is the same document exhibited and testified to by Antonio Alvarez, on this day, as by his testimony appears; to the receiving the said document in evidence, the counsel for the United

States objected, and filed the following reasons therefor, to wit: 1st. Because the Spanish archives of the province, among which the original concession should have been found, if any such ever existed, have been resorted to, and they afford no evidence that such an original ever did exist. 2d. Because the absence of the original from the office where the laws and usages of Spain required it to be deposited, and where the laws of the United States now require all such documents to be kept, (when unexplained,) creates a strong presumption that no such original ever existed. 3d. Because the absence of the original from the office assigned for it by law, is unexplained and unaccounted for. 4th. Because the complainant has not proven the execution of the original from which the copy is certified to have been taken. 5th. Because the original, if produced, could not be received in evidence, without proving the signature of the governor; and a copy can never be admitted in evidence, when the original, if produced, would require support from collateral proof. 6th. Because the copy cannot prove the signature of the governor to the original grant, if such original ever existed. 7th. Because to admit the copy in evidence, would be to allow it higher dignity and credit than the original; which objections were overruled by the court, and the said document admitted in evidence, but subject to the opinion of the court, as to its admissibility, on hearing the argument in this cause. The counsel for the claimant offered in evidence in this case, without objection from the counsel for the United States, all the testimony taken in the case of Elizabeth Wiggins against the United States, on the part of the claimant, relating to the manner in which the papers belonging to the public archives were kept during the Spanish Government, and since the same came into the possession of the United States, under the agreement of counsel filed in said case of Elizabeth Wiggins; and the counsel for the United States offered in evidence in this case, without objection from claimant's counsel, all the testimony taken in said case of Elizabeth Wiggins on the part of the United States, relating to the same subject under said agreement. The counsel for the United States also offered in evidence, without objection from the claimant's counsel, the deposition of Antonio Alvarez, as taken in the case of John Breward *vs.* the United States, the same being so copied as to be made applicable to this case. The counsel for the United States also offered in evidence a document in the case of Juan Russell, dated Havana, 4th March, 1815; to the receiving of which in evidence the counsel for the claimant objected, and the objection was overruled by the court.

And the evidence and testimony in this case on both sides being now concluded, and argument of counsel having been heard, as well on the part of the said claimant as on that of the United States, this claim was submitted to the court for its decree therein.

Evidence and testimony offered and read in this cause at the hearing thereof, and numbered from one to five, inclusive, to wit:

No. 1.

Memorial for Grant.

Offered and read on behalf of Claimant.

TRANSLATION.

Memorial.

Senor GOVERNOR:

Don Domingo Acosta, a resident of the town of Fernandina, before your excellency appears and says: That by the certificates which he presents signed by the commandants that were of this town, Messrs. Lopez, Rivera, La Puente, and Pacot, who have governed it successively since the year eighteen hundred and eight, your excellency will be informed that your petitioner has been a permanent resident of this town, engaged all the while in commerce, and has served (in all that has offered itself) the wishes of the government for the good of the province, and he has been particularly prompt with his person, his funds, and his influence, for the defence, the support, and the advancement of this town; and as he has at no time had any stipend, recompense, or remuneration of his expenses, supplies, and losses, and has refrained from molesting the attention of the government with solicitations: therefore, he solicits of your excellency the favor to grant him in property eight thousand acres of land; but as the petitioner is ignorant of the lands that are vacant, and desiring to avoid obstacles and dissentions with any person, he prays your excellency will be pleased to grant them at the places where the surveyor general may survey them as vacant lands. They are favors which he hopes to merit from the good administration of your excellency. Fernandina, Amelia Island, second of May, one thousand eight hundred and sixteen.

DOMINGO ACOSTA.

Grant.

Decree.

ST. AUGUSTINE, FLORIDA, 20*th of May*, 1816.

In virtue of the certificates which this party presents, and it being the will of the sovereign that the merits of his subjects should be rewarded, the lands solicited in this instance are granted with special charge to the surveyor general to survey them to him without injury to third persons.

COPPINGER.

Certificate of Aguilar.

Don Tomas de Aguilar, sub-lieutenant of the army, and secretary of the government of St. Augustine, East Florida.

I do certify that the preceding copy is faithfully taken from the original which exists in the secretary's office under my charge; and in compliance with what is ordered, I give the present in St. Augustine, Florida, 24th of June, one thousand eight hundred and sixteen.

TOMAS DE AGUILAR.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
In. and Tr. Sup. Court, E. D. F.

Testimony of Antonio Alvarez.

DOMINGO ACOSTA
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 8,000 Acres.

AUGUST 8*th*, 1834.

Antonio Alvarez, sworn as a witness in open court on behalf of the claimant. Upon original certified copy by Thomas de Aguilar of the memorial and grant in this case, brought into court by the witness under subpœna *duces tecum*, being presented to the witness, and he being asked whether the signature to the certificate of said copy is that of Thomas de Aguilar, witness answers that it is the signature of Thomas de Aguilar; and upon further inquiry, witness states that Thomas de Aguilar was government secretary of the Spanish Government here at the date of the said certificate. And upon certified copy of said original certificate and copy by Aguilar being shown to the witness, he states that the said certified copy is truly taken from the original of Aguilar; that said certified copy by Aguilar was deposited by the register and receiver who acted as land commissioners in the office of the public archives, of which witness is the keeper. Witness does not know in whose handwriting the copy to which the certificate of Aguilar is affixed, is in. It must be in the handwriting of some of the young men that were employed in the office of Mr. Aguilar.

Examined by the United States.

Witness states that there is no original concession or grant to Domingo Acosta for 8,000 acres of land in my office. There is no original in my office from which the certificate of Aguilar is made.

No. 2.

Certificate and Plat of Survey, 1,000 *Acres.*

Offered and read on behalf of Claimant.

TRANSLATION.

I, Don Jorge Clarke, captain of the northern district of East Florida, surveyor general of said province, in virtue of a commission from the government thereof, do certify that I have surveyed and delineated for Don Domingo Acosta, one thousand acres of land, on Bowleg's old plantation, and situated northwardly and contiguous to the same Bowleg's prairie, westward of Paynestown, in part of a larger quantity, the ownership of which was granted to him by the government under date of the twentieth of May, one thousand eight hundred and sixteen; which survey is conform to the following plat, and to the original thereof, which I keep.

Northern District, 12th January, 1818.

JORGE I. F. CLARKE.

[For plot of survey, see original, page 16.]

St. Augustine, 14th March, 1830. I certify that the preceding comprises a correct copy of the survey, and a faithful translation of the annexed Spanish document.

A. GAY,
Translator and Int'r of the Sup'r Court.

Certificate and Plat of Survey, 1,500 *Acres.*

TRANSLATION.

I, Don Jorge Clarke, captain of the northern district of East Florida, and surveyor general of the province, commissioned by the government thereof, do certify that I have surveyed and de-

lineated for Don Domingo Acosta, one thousand and and five hundred acres of land in the hammock called Jobbin's hammock, southwestwardly of the road called Ray's trail, leading from the natural bridge of the Santa Fe to the point of Alachua called Hogtown, in part of a larger quantity the ownership of which was granted to him on the twentieth of October, one thousand eight hundred and sixteen; which survey and delineation are conform to the following plot, and to the original thereof, which I keep.

Northern District, 15th January, 1818.

JORGE I. F. CLARKE.

[For plot of survey, see original, page 17.]

Certificate and Plat of Survey, 1,500 *Acres*.

TRANSLATION.

I, Don Jorge Clarke, captain of the northern district of East Florida, and surveyor general thereof, by commission of the government of the same, do certify that I have surveyed and delineated for Don Domingo Acosta, one thousand and five hundred acres of land, northward of Dunn's creek, running from Dunn's lake to the river St. John's, in part of a larger quantity which was granted to him by the government as his property, on the twentieth of May, one thousand eight hundred and sixteen; which survey and delineation are conform to the present plot, and to the original thereof, which I keep.

Northern District, on the fourteenth February, one thousand eight hundred and eighteen.

JORGE I. F. CLARKE.

[For plot of survey, see original, page 18.]

St. Augustine, 10th March, 1830. I do certify that the preceding comprises a correct copy of the survey, and a faithful translation of the Spanish document annexed.

A. GAY,

Translator and Intr. of the Superior Court.

Certificate and Plat of Survey, 4,000 *Acres.*

TRANSLATION.

I, Don Jorge Clarke, captain of the northern district of East Florida, and by the government commissioned surveyor general of said province, do certify that I have surveyed and delineated for Don Domingo Acosta, four thousand acres of land on the west side of Indian river, and at a place called Flounder creek, the said tract being the complement of eight thousand acres, which were granted to him as his property by the government, on the twentieth of March, one thousand eight hundred and sixteen; which survey and delineation are conform to the following plot, and to the original thereof, which I keep.

St. Augustine, January 20th, 1820.

JORGE I. F. CLARKE.

[For plot of survey, see original, page 19.]

St. Augustine, 14th March, 1830. I certify that the preceding comprises a correct copy, and a faithful translation of the survey and of the Spanish document annexed.

A. GAY,
Translator and Intr. of the Superior Court.

No. 3.

Testimony of Jos. S. Sanchez.

SUPERIOR COURT, *East Florida.*

DOMINGO ACOSTA *vs.* THE UNITED STATES. } Land Claim.

Testimony of witnesses taken in the case of Elizabeth Wiggins, *vs.* the United States, so far as the same relates to the manner of keeping the office of the public archives, before and after the ces-

sion; offered and read in this case at the hearing thereof, under the agreement of counsel, filed in said case of Wiggins, to wit:

Of Joseph S. Sanchez.

Joseph S. Sanchez, sworn as a witness, in open court, on behalf of the claimants, states, that he was here in 1821, at the time of the cession of this country to the United States, and that he has not been away from here, except once that he went to the Havana, and several times to Tallahassee as a member of the Legislative Council, and that he was here in 1822 and '23. Witness states that at the time of the cession of this country there was a good deal of fear that the original papers might be lost. The United States took possession of these papers in a very tumultuous manner. Witness states that he recollects that one Law had charge of these papers, and thinks he took charge of them a short time after they were taken out of the hands of the Spanish authorities. They were kept by Mr. Law in the hall under the room now occupied as a court room, and witness does not recollect that they were kept any where else by him. Witness states that he was in the habit of going in the office of the archives while Mr. Law had charge of it, for four or five months, morning and evening. Witness had an acquaintance in that office, a Mr. Cavedo. Witness thinks that there were a few temporary shelves put up in this room spoken of by him, but does not know whether the shelves were sufficient for all the papers in the office or not. There were some bundles of papers on the table, and some in some boxes in the room. Witness did not think at the time that these papers were kept carefully. Witness has seen papers blown from the bundles over the room; many of the bundles of papers were kept loose. Witness states, that he don't know that Mr. Law was at all precise as to the persons he permitted to come into the office. Witness saw a good many persons in the office. Witness states, that he has been several times in the office, and found neither Mr. Law or his deputy, and the windows and doors both open. Witness states, that this office was kept in such a manner that nothing could be more easy than to abstract, or take from it, documents, if persons felt disposed to do so. Witness says, that this office was kept very carelessly; very much so, indeed. Witness states, that the manner in which this office was kept was a matter of anxiety and alarm to the inhabitants of this place; and he has heard persons, interested in land claims, express their alarm that their papers might be lost from this office. Witness states, that he cannot say by what authority these papers came into the possession of Mr. Law, whether they came into his possession in virtue of his office as alcalde of this city, or not; and has never heard that he was under any pecuniary responsibility for the safe-keeping of these papers. Witness states, that he thinks a Mr. Penn, who is now dead, had something to do with these papers, but whether as Mr. Law's deputy or not, he does not know. Witness knows that these papers were in

the possession of Mr. Geo. Gibbs and Mr. Tingle together, at one time, and believes that neither Mr. Gibbs or Mr. Tingle understood the Spanish language. Witness states, that the original memorials and decrees were kept in separate sheets of paper filed away in bundles, in which way he thinks they are kept now. Witness states, that he thinks, in one or two instances, he has seen persons searching for papers in the office of the archives, while that office was kept by Mr. Law, which persons were not in any manner connected with the office; and, that during the time these persons were thus searching, neither Mr. Law or his deputy were present. Mr. Medicis, who is now dead, was one of the persons he saw thus searching for papers in this office. Witness states, that he believes that concessions and decrees for land were kept in the Spanish government secretary's office upon loose sheets of paper, filed away in bundles. Witness states, that he thinks that it would have been perfectly easy for these persons that were examining the papers in Mr. Law's office, to have abstracted them from that office if they thought proper; there was nothing to prevent it.

Examined by United States Attorney.

Witness states, that he thinks he has picked up, in Mr. Law's office, some grants of land which were blown from the bundles in the office across the floor; there were some bundles of papers in some boxes which were without tops, but the principal part of the papers in this office were kept on open shelves; (when witness speaks of the principal part of the papers, he does not mean the principal part of the grants, but the principal part of the bundles of papers in the office.) Witness does not know whether all the papers received from the Spanish Government were in this office of Mr. Law's, or not; but he did not think there were as may papers in this office as he had seen in boxes when they were taken from the Spanish Government. Witness saw the boxes with papers in Mr. Law's office; these boxes were about four feet in length, and about three feet wide, and two feet high; these boxes were not quite half full of papers. Witness can't say that the grants and concessions in this province would contain more paper than he saw in these two boxes. Witness did not see these papers that he found on the floor of Mr. Law's office, blown from the shelves; there was nobody in the office when he found them, he merely found them on the floor, and supposed they were blown from the shelves, but they may have been blown from the table. Witness states that the grants of land which were in this office were in bundles, but the strings of some of these bundles were loose, and the papers perfectly unconfined; some of the bundles had been opened in looking for papers, and had not been tied up again; witness saw them in that situation several times. Witness was in the office every day. Witness does not remember to have seen Mr. Law in the office except when he came to sign papers which had been

copied by his clerk, Mr. Cavedo. Witness has been in the office several times and found neither Mr. Law nor Mr. Cavedo there. Witness says that he don't recollect whether Mr. Cavedo was in the office at the time he picked those papers off the floor; he has several times picked up papers from off the floor, when no one was in the office; and sometimes, when he came to the office and found papers blowing about in this way, Mr. Cavedo was there. Witness states, that when he went into Mr. Law's office, and found no one there, he did not remain there long before Mr. Cavedo came in, some eight or ten minutes; and witness supposes that the way that the office came to be alone was, Mr. Law would come into the office, not more perhaps than once a week, to sign copies of papers that had been made out by Mr. Cavedo, and having signed the copies would retire, leaving the doors and windows open. Witness states that the windows were used as much as a place of entrance as the door, and witness has entered the office through the windows very frequently; the door was in the yard, and the people did not take the trouble to go round to it. Witness found the door closed sometimes, but it was barely pulled to. Witness states that there were two windows in this office that opened into the street, and the door from this office opened into the yard under the piazza. Witness states that he thinks when Mr. Cavedo left the office, to be absent for any length of time, he always fastened the door and windows as well as they could be fastened. The window shutters were very old, and any person could have pulled them open by putting their fingers between the shutters. Witness states that he does not know that these papers that he saw blowing about the office were papers that Mr. Cavedo had copied; they were such papers as he usually copied; they might have been papers which he copied, or they might have been blown off the shelves. Witness states that he does not know that Mr. Medicis, that he saw in Mr. Law's office, was an associate of either Mr. Law or Mr. Cavedo; he does not know that he was acquainted with Mr. Law, and was not intimate with Mr. Cavedo; witness don't know what he was searching for.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the archives were kept; and objection overruled by the court.

Testimony of Zephaniah Kingsley.

Of Zephaniah Kingsley.

Zephaniah Kingsley, sworn as a witness on behalf of the claimant.

Question. Are you acquainted with the manner in which the public office of the archives was kept after the cession?

Answer. Only transiently; when I came to town I was never employed in the office.

Question. Be pleased to state how the said office was kept, so far as came under your knowledge, whether with care or otherwise?

Answer. My impression was, that it was not kept with care; there was no head to it.

Question. Were you ever in the office, while kept by Mr. Edmund Law?

Answer. I was in it once or twice while he was keeper, during his absence, when he was away at the north; I believe it was two years after the change of flags before there was a regular keeper of the archives.

Question. Were the papers kept on shelves, or how were they kept?

Answer. As far as I observed, they were kept in the greatest confusion; it appeared to me to be a resort for boys smoking segars, and idle people.

Question. Was there or not great apprehension entertained by the Spanish inhabitants for the safety of the titles immediately after the cession?

Answer. I heard a general expression of that sort amongst all the people, and had a great deal of fear myself.

Question. Did or did not that fear result from the manner in which the office of the public archives was kept for sometime after the cession?

Answer. It did.

Question. Where was the said office kept at the time to which you have referrence?

Answer. In the room under the one now occupied as a court room.

Question. Was or was not the papers of the said office scattered about the office, and loose upon the table and shelves?

Answer. They were generally in great disorder; they were not in any regular order.

Question. Could or could not any paper have been abstracted from the said office, if any person had been disposed to do so?

Answer. It was my impression that they could, and it was the general report that persons that had cases in the courts here at that time, helped themselves, and some of these papers were found among the effects of deceased persons.

The counsel for the United States objected to the testimony of this witness, as to rumor or report, and objection sustained by the court, but testimony incorporated in the record to be received in case of appeal.

Question. Do you or not consider, from the manner in which this office was kept, that papers belonging to it were liable to destruction and loss, as well as abstraction?

Answer. My opinion is, that any thing could be done in it; I do consider they were liable to destruction as well as abstraction.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the

office of the archives were kept, and objection overruled by the court.

Examined by United States Attorney.

Question. How long was Mr. Law keeper of the archives?

Answer. I am not able to say exactly; I think it was about two years from the time of the change of flags, till there was a regular keeper?

Question. Who was the first regular keeper?

Answer. My impression is that Mr. Reynolds was the first regular keeper.

Question. Was not Mr. Cavedo present on those occasions when you visited the office?

Answer. I am not able to charge my memory as to any particular individual that was present; there appeared to be no regularity, and only a parcel of boys.

Question. You know Mr. Cavedo personally, and that he was a clerk of Mr. Law?

Answer. I know Mr. Cavedo personally, but I did not know him to be a clerk of Mr. Law.

Question. How often were you at the office?

Answer. Two or three times.

Question. What were the evidences of disorder you saw in the manner of keeping the office?

Answer. The papers laying about in disorder, and some of them in piles on the floor.

Question. Were not the persons whom you saw in the office engaged in examining the papers?

Answer. No, I did not perceive that they were; they appeared to be playing or amusing themseles; I did not see any employed in an official capacity.

Question. How were they playing or amusing themselves?

Answer. The same as boys usually do, smoking segars and fun.

Question. Were they small boys you saw smoking segars?

Answer. No, they were ordinary sized boys, and some of them stout young men.

Question. Do you recollect the names of any of the young men or boys?

Answer. I cannot charge my memory with the names of any of them.

Question. How many persons did you find in the office?

Answer. I am not able to say.

Question. Do you recollect any impropriety or disorder of conduct among the persons you saw there?

Answer. I did not, no more than young men usually would; I saw no impropriety.

Testimony of John M. Fontane.

Of John M. Fontane.

John M. Fontane, sworn as a witness in open court, on behalf of the claimants.

Question. Do you or not remember the time when the papers belonging to the office of the public archives of East Florida, were delivered to Mr. Reynolds?

Answer. I do not recollect the exact time; I believe about the year 1823.

Question. By whom were they delivered to Mr. Reynolds?

Answer. I do not recollect by whom they were delivered; it runs in my mind that Mr. Geo. Gibbs had something to do with them. I believe he was appointed one of the commissioners to take an inventory of them.

Question. Were you or not employed as a clerk in the taking the inventory of these grants?

Answer. I was.

Question. In what state or condition were the papers found, on your entering on the making of this inventory; did they appear to have been previously regularly and carefully kept, or otherwise?

Answer. They were far from being regularly kept; they did not appear to have been carefully kept; they were all over the room; a good many of the papers were not alphabetically arranged, and they were scattered and mixed.

Question. Were the papers found on shelves or scattered and loose over the room?

Answer. I do not recollect at this time whether any of them were on shelves or not, they were scattered about the room. I do not recollect if there were any shelves, and if there were any, I don't think there were more than two or three. I recollect seeing bundles on the floor.

Question. Were the bundles generally fastened or were they loose and open?

Answer. Some of them were fastened and a great many loose. The memorials and decrees were all on loose sheets of paper.

Question. In what place were these papers found on your entering on the duty of making this inventory?

Answer. In this house in the large room below.

Question. Are or are not royal titles bound together in books, and were they not so in Spanish times?

Answer. Yes. I have seen royal titles, bills of sale, and mortgages bound together in large books, I have also seen some dozen or more stitched together and indexed at the back.

Question. How do you account for the different manner of keeping those royal titles?

Answer. The way I account for the different manner in which

they were kept, is, when there was a sufficient number of small bundles stitched together they were made into a large book.

Question. Were or were not the door and windows of the room in which you found these papers secure and safe, or in what condition were they at that time?

Answer. Not much better than they are now, if anything, worse. I do not recollect particularly the condition of the room; there is a new door to it now, which was not there then.

Question. When these papers were taken of by the commissioners, as stated by you, were they not in such a situation as to be extremely liable to loss, to destruction, or to be taken from the office by any one disposed to take them?

Answer. I think that any one could have free access to the office. I have gone by it frequently and seen the front windows open and no one in the office; this was before the commissioners had charge of these papers.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the archives were kept, and objection overruled by the court.

Examined by United States Attorney.

Question. In speaking of the manner in which the archives were kept by Mr. Law, you have said that any one might have had free access to the office; that you frequently went by and saw the front windows open, and there was no one in the office. Could not the royal titles have been taken out as well as the concessions?

Answer. Any paper could be taken out with the same facility; a bundle could be taken out, and a big bundle as easy as a small one; except that a person might hide a paper, and it would not be so easy to hide a bundle.

Question. Were not the bundles in which the concessions were put up, larger and more difficult to remove than the sheets of paper stitched together on which the royal titles were written?

Answer. These memorials and decrees were generally in bundles, but on loose sheets of paper. Generally the small bundles containing royal titles were stitched together and on top of one another. I have stated before that a whole bundle of concessions would be more difficult to remove on account of the size. It would be much easier to take away a concession that was on a separate sheet of paper, than to take away one of these bundles of royal titles that were stitched together.

Question. Have you ever known an instance either under the Spanish Government or since the transfer of the province, in which a royal title was lost from the proper office?

Answer. I never heard of an instance.

Question. You have said that the papers in the office under the charge of Mr. Law were kept in great disorder. Do you believe

that a person unacquainted with the manner in which they were kept, could find any particular paper in a whole day's search?

Answer. I expect it would be a difficult thing for a person not acquainted with the manner in which these papers were kept to find any particular paper. I can't tell whether he could do it in a day's search or not.

Testimony of John Rodman.

John Rodman.

John Rodman, sworn as a witness in open court in behalf of the claimant.

Question. When did you arrive in this country?

Answer. On the 13th day of August, 1821.

Question. Were you or not in the habit of frequenting the office of public archives while under the charge of Mr. Edmund Law in this city. If you were, be pleased to state in what manner the papers in this office were at that time kept, whether with care or otherwise?

Answer. Yes. I was very often at the office of the archives while kept by Mr. Law; it was kept directly under this court room. I went to his office for the purpose of seeing the grants and other papers in the office. I became well acquainted with Mr. Law. He was a very gentlemanly man, and I always took him to be a very honest and honorable one in his public transaction. He kept his office of the public archives in the most careless, negligent, and slovenly manner imaginable. The public papers were lying, a great many of them, on a long table, some in bundles and some scattered about. The public office where these papers were kept was frequently left open, and no person in it to take charge of them. I would not venture to look at the papers when no person was in the office, but I frequently saw other persons that did; Spanish gentlemen that I suppose thought they had a right to look at them. Mr. Law did not attend regularly himself in the office, being much afflicted with the rheumatism. Mr. Cavedo acted as his clerk generally, and was not regular in the office.

Question. Was the office at the time you refer to, frequented indiscriminately by persons having business there, and by persons having no business there?

Answer. I can't say with regard to those who had no business there. With regard to those that had business there, I will mention one occasion. The occasion which I mention was with Mr. Andrews who was here, and agent for the sale of the Miranda grant. Mr. Andrews was afterwards made one of the judges, under the ordinance of General Jackson. He asked me to accompany him to Mr. Law's office of public archives, to examine a large grant of land, which he told me was made to Mr. Arredondo Jr: He told me it was near the grant to Miranda, and was afraid that it

encroached upon it. As I knew a little of Spanish he called upon me to examine these two grants and compare them together. We found Mr. Cavedo in the office, but not Mr. Law. Mr. Cavedo took a large bundle of grants from off the table, and showed us both the grant to Miranda and the grant to Arredondo; Arredondo's for 250,000 acres. We examined, very particularly, both these grants, and Mr. Cavedo assisted us to translate them into English. We were perfectly satisfied they did not encroach upon each other. I can only observe that before the land commissioners when they applied to establish the grant to Arredondo, it could not be found, and has never been found since.

Question. Have you or not constantly resided in St. Augustine since your first arrival in this territory, and are you not an attorney and counsellor at law, and have you or not been for many years past the collector for this port and district?

Answer. I answer this question in the affirmative.

The counsel for the United States objected to all the testimony of this witness relating to the manner in which the office of the archives was kept, which objection was overruled by the court.

Examined by United States Attorneys.

Question. Did you ever go to the office without finding Mr. Cavedo there?

Answer. I have been there many times, at least a dozen times, and found no person there, and the office open. I repeatedly complained to Mr. Law about it. I rarely found Mr. Law there. The reason that I went to this office so frequently, was, because my friends in New York requested me to examine the titles to land there, and I went to the office frequently for that purpose.

Testimony of John A. Cavedo.

Of John E. Cavedo, a witness sworn and examined under a commission duly issued from this court, by claimant.

Question. Do you know whether or not the office of the public archives of East Florida, was at any time in the keeping of one Edmund Law; and if so, when and how long, and in what house was such office kept by him?

Answer. I knew Edmund Law to have had the archives under his charge; I do not know how long, but it was kept at the government house.

Question. Were you or not in the habit of frequenting the said office of the public archives, while so under the charge of said Law?

Answer. I was; as he had employed me to write for him in the same office.

Question. In what condition were the papers in said office kept; were they carefully arranged on shelves, or carelessly scattered about the room?

Answer. There were a part of them kept on shelves, and a part of them on the floor; they were not at all kept carefully.

Question. Were the papers secured in bundles or not, and if they were generally so secured, were or not, in many instances, the fastening of the bundles loosed, so that the separate sheets of which said bundles were composed, were exposed to be scattered and blown about, and were they not often so scattered and blown about?

Answer. There were a part of them in bundles and a great many loose, they were exposed to be blown and scattered about the room; and were blown and scattered about the room.

Question. Have you or not, seen at various times the public papers in the said office lying about in confusion on the floor?

Answer. Many times.

Question. Was or was not the said office the common thoroughfare and lounging place of a great many idle persons?

Answer. I don't know whether the persons that frequented the office, were idle or not; but there were a great many loungers about the office.

Question. Was or was not the said office frequently left open, without the presence of any person who was authorized to protect, supervise, and keep in custody the papers deposited in it?

Answer. It was.

Question. Do you or not know if it was the practice for persons who desired the use of papers on file in the said office, to take them out of said office, in as great numbers, and at any time they pleased to do so.

Answer. Mr. Law gave me an order to deliver the gentlemen of the bar documents out of the office, by my receiving a receipt for the same.

Examined by United States Attorney.

Question. Please to name the persons who made said office a lounging place and thoroughfare, at the time you mention?

Answer. I know several persons, to wit: Joseph S. Sanchez, Edward R. Gibson, Charles Vignoles, John M. Fontane, Rafael Fontane, Charles Gobert, Thomas Penn, Lewis Hugnon, and many others.

Question. Please to state how you know that the practice in relation to said office was as you have stated it; and particularly the time when, and what person took any original papers from said office; and what papers they took; and whether they did not return them again to said office?

Answer. I know of one instance wherein I took a receipt from Gautier, for the testamentory documents of the estate of Mateo Guadarama. I do not recollect the time.

No. 4.

Deposition of Alvarez in Breward's Case.

Offered and read in behalf of United States.

Being the deposition of Antonio Alvarez, taken under commission duly issued from the court in the case of John Breward, *vs.* The United States, and offered and read in this case at the hearing thereof, the same being so copied as to be made applicable thereto, to wit:

DISTRICT OF EAST FLORIDA, *Superior Court.*

THE UNITED STATES. *ads.* DOMINGO ACOSTA. } Land Claim, 8,000 Acres.

Interrogatories to be propounded to Antonio Alvarez, Esq., a witness to be sworn and examined on behalf of the United States, before Elias B. Gould and John C. Cleland, Esquires.

First. Are you a native of East Florida, or not?

Second. What is your age?

Third. How long have you resided in the city of St. Augustine, in East Florida?

Fourth. Did you hold any office in East Florida before the transfer of that province to the United States? If you did, please to state what office, and when and how long you discharged the duties of such office?

Fifth. Did you, at any time, act as clerk in the governor's secretary office, or in the office of the escribano or not? If you did, please to state which, when, and how long?

Sixth. In what office were concessions of land made and kept in East Florida before the transfer of that province to the United States?

Seventh. In what office were royal titles (real titles) made and kept in East Florida before the transfer of said province to the United States?

Eighth. In what office should the papers now be found deposited which are referred to in the 6th and 7th preceding interrogatories? Is, or is not the public archives the proper place of deposite for such papers?

Ninth. Are you the keeper of the public archives of East Florida, or not? If you are, please to state how long you have held said office?

Tenth. Is there any original grant or concession to Domingo Acosta for the above mentioned 8,000 acres of land, on file in said archives or not?

Eleventh. Please to name the several persons who held and exercised the office of governor of the province of East Florida

between the year 1784 and 1821, and the time when each of said persons entered upon the discharge of his duties as such governor, and when they respectively ceased to discharge the said duties.

Twelfth. Is there any order on file in the said archives under your charge from the King of Spain, or from the council of the Indies, requiring said governor to render an account of his administration during the time when he held and discharged the duties of said office, as governor as aforesaid ? If there is, please state to which of said governors said order was directed, and annex to your answer a copy thereof.

Thirteenth. Were any of said governors ever required to render such account ? If yea, state which of them.

Fourteenth. Did any one of said governors ever render such an account ? If they did, please state which of them, when it was made, and particularly whether such account contained a statement of the number of grants or concessions of land made by said governor during such administration, with the name (or names) of each grantee (or grantees) and the number of acres of land granted to each ?

Fifteenth. Is there any copy of such an account made by any of said governors now on file in the archives under your charge ? If there is, please annex a copy thereof to your answer.

Sixteenth. Did any of said governors ever undergo a residencia in said province ? If yea, which of them, and when ?

Seventeenth. Did any of said governors ever render any account to the king, captain general, intendant of Cuba, or any other officer, of the lands granted by him, except the single case of the exchange of lands for a vessel with Juan Russell, or not ? If they did, please to state which of them, and of what said account consisted, and state also the particulars of the case of Juan Russell.

THOS. DOUGLAS,
United States Attorney.

Cross Interrogatories.

First. If you answer to the 10th direct interrogatory that the original grant or concession to Domingo Acosta for 8,000 acres, is not on file in your office, be pleased to state whether the original certificate of that grant or concession by Tomas de Aguilar, the secretary of the government is there; and if so, how it came there ?

Second. State whether such certificate was not the only original evidence of title furnished to the grantee by the government in cases of grants or concessions, and whether such certificate, according to Spanish law and usage, was not to serve the grantee as proof of his grant or concession in any event.

Third. Had the grantee in case of grants, or concession any right to, or control over the possession of the grant or concession deposited

in the office of the secretary of the government, and of which the grantee received a counterpart certified by the secretary?

Fourth. Is not the case of Juan Russell a matter of record in your office, and are not all the proceedings set forth in writing thereon?

Objection.

To so much of the 17th direct interrogatory as makes enquiry as to the case of Juan Russell, and the particulars thereof from the witness, we object, because the testimony of the witness is not the best evidence in the case. The question itself supposes that John Russell's case is of record in writing in the office of the archives, and a copy of that record is better evidence of its contents than the verbal testimony of the witness.

LANCASTER AND SMITH,
For Claimants.

SUPERIOR COURT, *District of East Florida.*

THE UNITED STATES *ads.* DOMINGO ACOSTA. } Land Claim, 8,000 Acres.

The answers of Antonio Alvarez to the interrogatories and cross interrogatories hereunto annexed, taken before the commissioners appointed for that purpose, in behalf of the United States.

To the first interrogatory. Witness answers, I am a native of East Florida.

Second. To this he answers, my age is forty-two years.

Third. To this he answers, St. Augustine has always been my residence. I was absent for sometime in 1809 and 1810 in the Havana.

Fourth. To this he answers, I was clerk in the government secretary's office from 1807 to the change of government, during which time I was absent in the year 1809 and part of 1810, and parts of 1814 and 1815.

Fifth. To this he answers, I was clerk in the government secretary's office as stated in the preceding answer. I also acted as clerk in the office of the escribano for a few months in the year 1814.

Sixth. To this he answers, concessions of land were made and kept in the office of the secretary of the government.

Seventh. To this he answers, royal or real titles were made and kept in the office of the escribano.

Eighth. To this he answers, the proper place for the deposite of such papers is the office of the public archives.

Ninth. To this he answers, I am keeper of the public archives, and have the office since 1829.

Tenth. To this he answers, there is no original grant to Domingo Acosta on file in the office of the public archives. There is a copy of said grant certified by Thomas de Aguilar, as secretary of the Spanish Government, now on file in my office, which was transferred to me by the register and receiver of the land office, while acting as land commissioners.

Eleventh. To this he answers, Zespedes, from 1784 to 1790; Quesada, from 1790 to 1796; White, from 1796 to 1811; Estrada, from 1811 to June, 1812; Kindelan, from 1812, I believe, to May, 1815; Estrada the balance of 1815; and Coppinger, from 1816 to the change of flags. My knowledge of the time of the government of Zespedez and Quesada is derived from the information I obtained in the office of the secretary of the government.

Twelfth. To this he answers, I know of no such order.

Thirteenth. To this he answers, I know of none.

Fourteenth. To this he answers, none of the governors made such account.

Fifteenth. To this he answers, there is no such document on file in my office.

Sixteenth. To this he answers, I know of no governor of East Florida who underwent such residencia.

Seventeenth. To this he answers, the governors of East Florida never rendered an account of the lands granted by them, except in the case of the exchange of four thousand acres of land for a schooner, with Juan Russell.

To the first cross interrogatory, the witness answers, there is a copy of said grant on file in my office, certified by Thomas de Aguilar, as secretary of the Spanish government; which copy was transferred to me by the register and receiver of the land office, whilst acting as land commissioners.

Second. To this he answers, I answer in the affirmative.

Third. To this he answers, the grantee had no right or control over the original.

Fourth. To this he answers, I answer in the affirmative.

ANTONIO ALVAREZ.

TERRITORY OF FLORIDA, *County of St. John's, ss.*

We, whose names are hereunto subscribed, commissioners named in the annexed commission, do certify, that after being sworn ourselves, we did examine the witness named in said commission, under oath, and his answers to the interrogatories and cross interrogatories annexed to said commission are truly and correctly herein set forth.

Given under our hands, at St. Augustine, the 6th August, 1834.

JOHN C. CLELAND, } *Commissioners.*
E. B. GOULD, }

No. 5.

Document in Case of Russell.

Offered and read in behalf of United States.

TRANSLATION.

Under date of the 14th June last, his excellency the minister of the royal domain tells me what follows: "I have given to the king an account of your excellency's letter, No. 9, of 20th of November last, in which you inform of what was directed to you by the governor of East Florida, on the occasion of his having given to Don Juan Russell one thousand acres of land in exchange for a schooner, which he wanted for the royal service, and which with all its appurtenances was valued two thousand and six hundred dollars. His majesty, being informed of the whole transaction, has been pleased to approve, for this time only, the said determination, in consideration of the absolute want of funds in the said province; and commands me to charge you again, as I do charge you, to comply with the provisions of the royal orders of the 14th of November, of 1804, and of the 31st March, 1806, which prohibit the alienation of the royal lands which was made in favor of foreigners, and which provisions ought to be complied with rigorously in future. This, by order of his majesty, I communicate to your excellency, for your knowledge and government."

And I communicate the same to your excellency, for the corresponding effects on your part. God preserve your excellency many years. Habana, 4th of March, 1815.

APODACA .

His Excellency the GOVERNOR of East Florida.

St. Augustine, 21st November, 1829. I certify that the preceding is a corrrect translation of the Spanish document annexed.

A. GAY,
Translator and Intr. of the Supr. Court.

Cause Continued, for Further Proof.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Monday, the thirty-seventh day of said term, and the twenty-fourth day of the month of November, the following entry of record was made in this cause, to wit:

DOMINGO ACOSTA
against
THE UNITED STATES OF AMERICA. } 8,000 Acres.

This case having been submitted to the court, and the court having examined the same, doth order that this cause be continued, with leave to the parties to introduce further proof therein.

Cause Continued.

And afterwards, before the superior court for the district of East Florida, holden at the court house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to which term this cause had come by regular continuance, to wit, on Monday, the second day of said term, and the seventeenth of said month, the following entry of record was made in this cause, to wit:

DOMINGO ACOSTA
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 8,000 Acres.

This day came the counsel for the United States, and the counsel for the claimant being absent from the court, and one from the district and Territory, by consent of the counsel for the United States, it is ordered that this cause be continued till the next term.

Cause again Submitted.

And afterwards, before the superior court for the district of East Florida, holden at the court house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and forty, to which term this cause had come by regular continuance, to wit, on Monday, the sixth day of said term, and the twentieth day of said month, the following entry of record was made in this cause, to wit:

DOMINGO ACOSTA
vs.
THE UNITED STATES. } Land Claim, 8,000 Acres.

This day came the counsel for the United States, and this claim was submitted to the court for its decree thereon, on the evidence and testimony heretofore offered and filed in this cause, at the July term, 1834, of this court.

Decree of the Court.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and forty, to wit, on Wednesday the eighth day of said term, and the twenty-second day of said month, the following entries of record were made in this cause, to wit:

DOMINGO ACOSTA
against
THE UNITED STATES OF AMERICA. } Land Claim, 8,000 Acres.

This day came the counsel for the said United States, and this claim having been submitted to the court on the 20th instant, and

the said court having examined the claim of the said petitioner, and the answer of the attorney of the United States, together with evidence and testimony offered and taken in this cause, and having maturely considered the same, doth order, adjudge, and decree that this claim is valid, and that in accordance with the laws and customs of Spain, and under and by virtue of the late "treaty of amity, settlement, and limits between the United States of America and the King of Spain," ratified by the President of the United States on the 22d of February, 1821, and under and by virtue of the laws of nations, and of the United States, it is hereby confirmed, adjudged, and decreed unto the said claimant to the extent, for the number of acres, and at the places, as in the four certificates and plats of survey. The first for fifteen hundred acres, dated 15th January, 1818; the second for one thousand acres, dated 12th January, 1818; the third for fifteen hundred acres, dated the 14th of February, 1818; and the fourth for four thousand acres, dated 20th January, 1820; and filed herein, is set forth, to wit: The first survey of fifteen hundred acres is situated in the hammock called Ibbin's hammock, southwardly of the road called Ray's trail, leading from the natural bridge of the river Santa Fe to that part of Alachua called Hogtown, and has the following lines to wit: The first line commences at a stake, and runs north fifty degrees, east one hundred and seventy-three chains and twenty links, to a hickory tree; the second line runs from said hickory north forty degrees, west eighty-six chains and sixty links, to a red-oak; the third line runs from said red-oak south fifty degrees, west one hundred and seventy-three chains and twenty links, to a light-wood tree; and the fourth line runs from said light-wood south forty degrees, east eighty-six chains and sixty links, to the stake at the beginning of the first line. The second survey of one thousand acres is situated on Bowleg's old plantation, and northerly and contiguous to the same Bowleg's prairie, westward of Paynestown, and has the following lines, to wit: The first line commences at a stake and runs north eighty-five degrees, east sixty chains, to another stake; the second line runs from said stake south fifty-five degrees, east seventy chains and seventy-one links, to another stake; the third line runs from said stake north thirty-five degrees, east seventy chains and seventy-one links, to an iron-wood; the fourth line runs from said iron-wood north fifty-five degrees, west seventy chains and seventy-one links, to a pine tree; the fifth line runs from said pine tree north seventy-six degrees, west eighty chains, to a hickory; and the sixth line runs from said hickory south fourteen degrees, west eighty-five chains, to the stake at the beginning of the first line. The third survey of fifteen hundred acres is situated northwardly of Duun's creek, running from Dunn's lake to the river St. John's, and has the following lines, to wit: The first line commences at a live-oak on the banks of Dunn's creek, and runs north seventy-five chains, to a pine; the second line runs from said pine east two hundred chains, to another pine;

and the third line runs from said pine south seventy-five chains, to a cypress tree on the banks of Dunn's creek. The fourth survey of four thousand acres is situated on the west side of Indian river and at a place called Flounder creek, and has the following lines to wit: The first line commences at a royal palm tree and runs south sixty-nine degrees, west two hundred and twenty-two and a half chains, to a pine tree; the second line runs from said pine tree south twenty-one degrees, east one hundred and eighty chains, to a pine tree; the third line runs from said pine tree north sixty-nine degrees, east two hundred and twenty-two and a half chains, to a royal palm tree; and the fourth line runs from said palm tree north twenty-one degrees, west one hundred and eighty chains, to the royal palm tree at the beginning of the first line.

Appeal.

THE UNITED STATES OF AMERICA *ads.* DOMINGO ACOSTA. } Land Claim, 8,000 Acres.

This day came the attorney of the United States for this district, and moved the court that an appeal be granted in this case, on behalf of the said United States, from the decree of this court to the Supreme Court of the United States; and that a citation, with notice of said appeal, may be forthwith issued by the clerk of this court to the appellee, and that the same may be served by the marshal of this district upon the said appellee, or his solicitor or agent, and returned to this court within thirty days from the issuing thereof; all of which is ordered accordingly.

Citation of Appeal and Return.

Copy of the citation of appeal issued in pursuance of the above order, with the return of the marshal thereon, to wit:

In the name and by the authority of the United States of America, to Domingo Acosta, or his agent, attorney, or solicitor, greeting:

You are hereby cited and admonished that an appeal has been taken on the part of the United States, from the decree of the superior court for East Florida to the Supreme Court of the United States, in a certain claim to eight thousand acres of land, wherein you, the said Domingo Acosta, are claimant, and the said United States respondent, and that the record in said cause will be forwarded to the said Supreme Court, to be placed on the docket of

said court at the next term thereof, to be holden on the second Monday of January next.

Witness the honorable Isaac H. Bronson, judge of our said [L. S.] court, at the court-house in the city of St. Augustine, this 24th day of July, A. D. 1840.

K. B. GIBBS, *Clerk*.

T. DOUGLAS, *District Attorney*.
J. B. LANCASTER,
Solicitor for Claimant.

"Served by delivering a copy of this process to J. B. Lancaster, this 27th July, 1840.

JOHN M. FONTANE, *Dep. Marshal*."

SUPERIOR COURT, *District of East Florida*.

I, Kingsley B. Gibbs, clerk of the said court for the district aforesaid do hereby certify, that the foregoing forty-eight pages, contain a full, true, and complete transcript of the record and proceedings had in the case therein named in my charge.

In witness whereof, I have hereto set my hand and affixed the seal of the said court at the city of St. Augustine, [L. S.] this twentieth day of November, in the year of our Lord one thousand eight hundsed and forty.

K. B. GIBBS, clerk.

By the Honorable Isaac H. Bronson Judge of the Superior Court for the District of East Florida, to all to whom these presents shall come, be seen, or made known, greeting:

Know ye, that Kingsley B. Gibbs, who hath signed the foregoing attestation, is clerk of the superior court for the district of East Florida, that all due faith and credit, are and ought to be given to his acts as such, and that the foregoing attestation is in due form of law.

In testimony whereof, I have hereto set my hand at the city of St. Augustine, this twentieth day of November, A. D. 1840, and of the Independence of the United States of America, the sixty-fifth year.

I. H. BRONSON, *Judge &c.*